GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju, R/o Rajahmundry East Godavari District, against the proceedings Ref. C5/M/424/2003, dated 23.08.2011 of the District Collector, East Godavari - under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/ 1993)– remanded back to District Collector for afresh enquiry – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 19 **Dated: 10-03-2017**

Read the following:

1. Proceedings of the District Collector, East Godavari District Ref.No.C5/M/424/2003, dated 23.08.2011.
2. Appeal Petition filed by Smt. J.R.D. Sujana Ranjan Kumari W/o Sri A. Abraham Raju, R/o Rajahmundry East Godavari District before M(TW), No.289/M(TW) /2011, dt. 10.11.2011.
3. Govt. Memo No.15911/CV.2/2011 SW (CV.2) Dept, dt.19.11.2011.
4. Appeal Petition filed by Smt. J.R.D. Sujana Ranjan Kumari W/o Sri A. Abraham Raju, R/o Rajahmundry East Godavari District before M(TW), No.313/M(TW)/2011, dt. 12.12.2011.
5. Govt. Memo No.15911/CV.2/2011 SW (CV.2) Dept, dt.17.12.2011.
6. From the District Collector, East Godavari, C5(M)424/ 2003, dt.07.01.2012.
7. Misc. petition/Appeal 15911/CV.2/2011, dt.19.08.2013 filed by two (2) her brothers of Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju, before the M(TW), No.239/M(TW) / 2013, dt. 27.08.2013.
8. Govt. Memo No.15911/CV.2/2011 SW (CV.2) Dept, dt.13.02.2014 & 17.11.2015 & 18.03.2016.
9. Written arguments filed by the appellant before the Appellate Authority on 29.04.2016.

*****

ORDER:

In the reference 1st read above, the District Collector, East Godavari has issued orders canceling the ST – Valmiki Caste Certificate obtained from the then Tahsildar, Rampachodavaram in 1986 by Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju.

2. In the reference 2nd read above, Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 3rd read above.

3. In the reference 4th read above, Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju has filed another appeal petition before the Government, against the said Proceedings of the District Collector, East Godavari. After re-examining the said Appeal Petition, Government have issued stay orders on the proceedings of the District Collector, East Godavari and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 5th read above.

4. In the reference 6th read above, the District Collector, East Godavari has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju.

(P.T.O)

5. In the reference 7th read above, Sri J.A.R.G.Sreeranga Nayakulu and J.C.J.V. Samrajya Nayakulu, two (2) brothers of the appellant have also filed appeal petition before the Government, against proceedings No.Dis.No.C5/M/424/2003, dated 03.07.2013 of the District Collector, East Godavari, for cancellation of their ST-Valmiki caste certificates.

6. The said Appeal Petition has been posted for hearing on 13.02.2014, 17.11. 2015 and finally on 09.04.2016 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Appellant have attended the said hearings finally on 09.04.2016 before the Hon'ble Appellate Authority and argued the case and explained her community status and filed Written Arguments before the Hon'ble Appellate Authority in support of her community claim in the reference 9th read above.

7. After hearing both the sides and on perusal of the records and also the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari, dated 23.08.2011, the Appellate Authority has observed that:

I. The appellant has stated that the District Collector has not made correct interpretation of the guide lines issued in circular Memo No.36456/CV-2/96-3, dt: 12-06-1998 of the social Welfare (CV) Department, Lr.No.35/1/72-R.U. (SCT-V) dt: 02-05-1975, Lr.No.BC-16014/1/82-SC & BCD of Government of India dt:06-08-1984. According to the finding (3) of the proceedings of the Dist. Collector dt: 29-08-1996, the ancestors of the appellant are the residents of vetamamidi village of Addateetala Mandal and went to Madicherla Village of Rampachodavaram Mandal. The observations are that the birth and death entries pertaining to 04-02-1924, 10-07-1932, 13-03-1962, 31-08-31 of Vetamamidi and 1932 of Boddapalli disclose that they are residents of Agency Tracks and never resided in plain Areas. As per SC and ST Amendment Order 1976, Valmikis exists in Agency Tracks of East Godavari District. The finding of the Collector on record of caste in the birth and death registers as Mala, Adiandhra and Christian does not preclude the rights of the appellant in claiming Valmiki status in view of the Memo No.36456/CV-2/96-3, dt:12-06-1998 of the Social Welfare (CV) Department.

II. The District Collector wrongly arrived to a conclusion on the certificate issued to jayapurapu jagannayakulu F/o Appellant in 1957 on the plea that it is not a Xerox copy of original certificate and typed copy with attestation of the Agriculture Officer, Rajavommangi, E.G District. The appellant humbly submits that there are no Xerox machines in 1976 and the source prevailing is that the applicants are generally got typed the Certificates and obtain the attestation of Gazetted Officer available. The collector has not verified the signature of the Assistant Agriculture Officer attested the true copy with office records of the Panchayat Samiti, Rajahmundri and not examined this for its genuineness on par with the verification of other certificates. The appellant submit that this document pertains to 1957 and it is valuable in arriving the social status of the appellant as the document belongs to jayapurapu jagannayakulu F/o the Appellant. Without proper verification the contention of the Dist Collector Confirming the certificate as fabricated one is false and baseless.

III. The District Collector wrongly arrived to a conclusion that there is no entry of caste in the appointment order of jayapurapu Jagannayakulu as teacher and his subsequent transfer proceedings. The finding is

(Contd…P.3)

nothing but the observation of the subordinate officer (RDO) without having knowledge on appointments. In the District having Agency Tracts, the teacher's posts will be sanctioned by DEO for plain area and there will be Agency DEO in Agency tracts and his entire carrier performed in Agency tracts only. It is to be observed that the posts in Agency tracts appointed by the Agency DEO is meant for only Tribes as such the father of the appellant identified as Schedule tribe and continued his service without any hesitation. The parents of the father of the appellant are illiterates and the caste of the father was recorded as Harizan, Adi-Andhra without their consent. However, the subsequent certificate issued in 1957 clearly establishes/discloses that the father of the appellant belongs to Valmiki, Schedule Tribe.

IV. It is not true to say that the applicant has not produced caste certificate of her mother and birth register. It is a fact that the Maternal Uncle and son of the maternal uncle of the appellant, Dhuli Lookaratnam and Dhuli David Raju respectively were confirmed as Valmaki by the District Collector, Kakianda in B2/5469/93 dt:20-04-1994, Ref.(B2) 5469/93 dt:28-04-1994. Ref.C5(M)1571/2002 dt:22-05-2006 and R.Dis.C5(M) 08/2003 dt:17-05-2005. The Director of Tribal Welfare confirmed that Duli David Raju belongs to Valmiki in Rc.No.2983/2003/TRI/VC-7 dt:07-07-2003. It is strange to note that the appellant has not produced evidence of her mother's caste, when her maternal uncle and his son confirmed as Valmiki in various occasions. The District Collector has failed to consider/examine the representation dt.07-12-08 of Dhuli Purushottam and Dhuli Gabriyelu, maternal uncles of the appellant in deciding the caste status of the mother of appellant.

V. The Contention of the Dist. Collector that majority of the birth and deaths on paternal side of the appellant were recorded as Adi-Andhra is not maintainable under law. The Hon'ble High Court passed orders to examine and verify all the records produced by the appellant. The District Collector has not taken into consideration of all the documents in arriving a conclusion on the social status of the appellants. It is apparent that the District Collector was predetermined and had already come to conclusion to substantiate his earlier proceedings without examining all the documents produced by the appellant in compliance to the directions granted by the Hon'ble Court and under the purview of the Act 16 of 1993 and Government instructions issued in Memo No.36456/CV-2/96-3 dt: 12-06-1998. It is evident that the appellant was admitted into school in 1965 (Prior to Amendment Act 1976) as Valmiki and the children of her paternal uncle Bairagi admitted in Tribal Welfare Ashram School in the year 1958 as Hindu Valmiki. It is strange to not that the records produced on paternal side are not sufficient in deciding the social status merely on the school admission of jagannayakulu father of the appellant who was admitted by his innocence and illiterate parents.

VI. The District Collector has issued the proceedings relying upon the report of his subordinate RDO without observing the various decisions and instructions of the Government of India as well as Government of Andhra Pradesh with reference to the Acts in force. He has not examined his decisions in respect of the caste status on maternal side blood relatives of the appellant.

VII. The Dist. Collector relied upon the LTRP judgment in 9/75, report of the Dy.Tahsidlar, Addteegala dt:13-07-76 and settlement pattas in respect of deciding the caste status of Dhuli Looka Ratnam a relative of maternal side (own Maternal Uncle) of the appellant in B2-5469/93 dt:20-04-1994. He has not considered the judgment in LTRP380/77 in respect of jayapuram Appalaswamy @Abraham, paternal uncle of

(Contd…P.4)

the appellant. Thus the Dist Collector has violated Article 14 of the Constitution of India and has failed to render equality before law. It is an admitted fact that the appellant produced death extract of 1944 pertains to her paternal side from Visakhapatnam District. The ancestors of the appellant hailed from Visakhapatnam District to Vetamamidi of East Godavari District and the relatives of the appellant are still residing in Visakhapatnam District.

VIII. The District Level Scrutiny Committee has observed that It seems that the candidate herself has not made correct interpretation of the guide lines issued in circular Memo No.36456/Cv2/96-3 dt 12-06-1998.

According to which "the certificate seeker who claims to belong to Valmiki tribe in the agency tracts of E.G District should produce the following evidence to establish his claim.

a) The certificate seeker and his family should establish that they are permanent residents of agency tracts of E.G. District on the date of first notification of Valmiki tribe (in the agency tracts) in the list of Scheduled tribes (25-09-1956)
b) The certificate seeker should prove that he/she belongs to valmiki tribe regarding (a) the certificate seeker should produce evidence to show that his/her parents or grandparents have been permanent residents of agency tracts on 25 Sep, 1956.

For point (b) the certificate seeker should establish his/her community on the basis of documentary evidence likes educational records, birth and death registers land records documents etc.

Hence the candidate should produce evidence on two points

1) Their parents/grandparents are permanent residents of agency tracts prior to 1956.
2) And also produce documentary evidence like educational records, immovable property records, birth and death registers etc to establish his/her community.

As per the circular memo specified above documentary evidence was examined. In these documentaries evidence as like other cases the birth and death extracts which are treated to be authentic record were also examined, with other things, if the cast is noted as Mala, Adi-Andhra and Christian in the birth and death registers pertaining to 1924, 1932, 1962, how the caste can be decided as Valmiki, merely basing on residence in agency areas. Thus their residence is only proved but not their caste as Valmiki.

IX. The DLSC has also observed that the candidate not produced the caste certificate of her mother and birth register which can be taken into consideration to determine her caste. She produced school records of her mother side relatives which were issued after 1956; there are no records prior to 1956. She produces only caste confirmation orders of Dhuli Lookaratanem and Dhuli David raju (who are said to be relatives of her mother) Basing on this her caste status can't be determined. Besides this, as the candidate directly deposed in her explanation that she belong to Agency Mala and her caste was determined as Valmike as per the circular instructions of the then collector. These caste confirmation orders which are examined under the special conditions cannot be taken into consideration. The candidate herself admitted in this Para mentioning the Govt. memo as "The certificate seeker should establish his/her community on the basis of documentary like educational records, birth and death

(Contd…P.5)

registers etc relating to the period prior to 1956." Out of the 66 documents produced most of the documents are school records (TCs/ Admission registers/ Record sheets) issued after 1956, and which were issued on the self deposition of the candidates. There are some LTRP judgments where caste can be noted as per the self deposition of the candidates. Deposition of the villagers can't be taken into consideration if there is clear evidence (in most of the birth and death registers cast noted as Mala, Christian, Adi-Andhra etc and self deposition of the candidate that their caste was treated as Valmiki as per the circular instructions of the then collector). The records prior to 1956 have to be taken into consideration to determine the caste status. The caste status of Duli Lokaratnam may be confirmed previously (by the then Collector) as per the then prevailing circumstances. But at present there are so many evidences to establish that the candidate does not belong to ST (school record of father and self deposition of the candidate and birth and death extracts (more in No) wherein the caste noted as mala) and there are no authentic documents produced by her. The authenticity of the death extract filed by the candidate pertaining to the period 1944 issued from Vizag District is not proved. The other birth extract issued from Maredumilli Mandal of East Godavari District pertaining to the period (1994) i.e. after 1956. Even though the candidate filed birth and death extracts (2 in number and whose authenticity not proved) there are also 5 birth and death records where the caste noted as Mala, Adi Andhra, Christian, Mala, Thus there are more records where the caste noted as Mala/Adi-Andhra hence these two cannot be taken into consideration as per the Govt. Circular. The guidelines and proceedings issued in the circular Memo 36456/cv-2/96-3 dt 12-6-1998 were strictly followed while issuing the proceedings. The candidate herself admitted that the certificate seeker should establish his/her community on the basis of documentary evidence prior to 1956. But most of the documents filed by the candidate are pertaining to the period after 1956. The birth extract filed towards paternal side was issued from Vizag District and its authenticity not proved here. Besides Five birth and death extracts are available where the caste noted as Mala, Adi-Andhra and Christian. Thus the District Collector followed the guidelines issued and as per Act 16/93 and as per Hon'ble High Court Orders, issued the proceedings by the candidate. It is submitted that once she admitted that she belongs to Agency Mala and her caste is treated as Valmiki as per the circular instructions of the then Collector which were quashed by the Hon'ble High Court. There are (5) birth and death extracts available where the caste noted as Mala, Adi-Andhra. The caste certificate of her father and brothers were also cancelled and previously the appeal filed by the candidate before the Govt. was rejected.

X. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

XI. The Appellate Authority has observed that the crux of the whole case is whether appellant belongs to ST-Valmiki or SC-Mala. The orders passed by the authorities under A.P.S.A.L.T. Regulation can't viewed lightly for the reason that the immovable property in agency areas are mostly granted by the revenue authorities either under settlement laws or under board standing Orders considering the fact that they are STs and that they have satisfied the conditions required under the said laws/rules. Apart from the same they are inhabitations of the agency area. Hence it may be considered that the orders in favour of a person under Land Transfer Regulation would definitely

(Contd…P.6)

be one of the determinates of the caste of and individual in the agency tracts. More so, the said orders become final. The contention of the appellant is that the learned District Collector has not correctly interpreted the guidelines issued by the Social Welfare Department of Govt., of A.P., on 12.06.1998 and also by the Govt., of India on 06.08.1984 in letter No.BC 16014/1/82-SC and BC-D. Admittedly, as per the finding of the District Collector, the ancestors of the appellant are residents of Vetamamidi village of Addateegala Mandal and hailed to Madecharla village of Ramapachodavaram Mandal and their death abstracts reveal that they are residents of agency tracts, but not plain areas. Valmiki's admittedly are residents of East and West Godavari Districts. As per the memo dated 12.06.1999, issued by Social Welfare Department of Government of Andhra Pradesh in Memo No.36456/CV.2/96-3, the "ST-certificate seeker should prove that his ancestors are permanent residents of East Godavari and West Godavari or Visakhapatnam prior to 1956 as Valmikis were included in the list of STs in the year 1956 (that is by notification dated 25.09.1956)" The documents produced by the appellant along with appeal include the Judgment of Hon'ble High Court, in WP No.14536/2009, dated 21.07.2009. By going to the website of Hon'ble High Court with reference to said petition it is found that the same was disposed off on 15.07.2016, where by the Government is directed to dispose of the above appeal within a period of (3) months by giving opportunity to both the sides. Accordingly, the above matter is taken once again and the advocate for the appellant once again taken up for hearing, but the appellant did not produce any more documents additionally, but the documents submitted along with the appeal deserve consideration in view of the above. All the documents filed by the appellant before the District Collector were not considered correctly. The appellant also contends that witnesses were not examined in her presence during the course of enquiry by the DLSC. The documents filed before the Government are to be examined with reference to the original records and the appellant states that she was compelled to file all the said records before the Government as she was not given sufficient opportunity to substantiate her claim. The father of the appellant admittedly was granted ST-Valmiki certificate by the then Deputy Tahsildar, Rampachodavaram on 04.06.1957 and the same was not cancelled . Therefore, the Government is of considered view that by the impugned order of District Collector evidently violated principal of natural justice. Anyway, the Collector did not agree with documents filed by the appellant before him and he did not take steps to verify the genuineness or otherwise of the same even though the original records are available in the offices of the officers sub-ordinate to him. And the documents filed before the Government and before the District Collector are if found to be true would change the result of the matter. The order of the learned District Collector is too lengthy and apparently he has made as lot of exercise, but it is fact that several crucial documents filed before him were not considered by him as can be seen from the impugned order. Apart from the same it is also a fact the appellant according to collector belongs to SC-Community but not ST, but there is no certificate granted to either appellant or her father to the effect that they belong to SC Community, which is a also a privileged community a notified under the Constitution of India and they claim that they are admittedly considered as ST-Valmiki till this day by issuing Valmiki caste certificate to them and to some of their relatives. Further, the impugned order of the Collector is not sustainable under law. The Hon'ble High Court and Supreme Court have held time and again that the statutory authorities, quasi judicial tribunals on whom the burden to act judicially is cast, shall ensure that the principles of natural justice are followed strictly during the

(Contd…P.7)

enquiry/trial and in this case also several documents filed by the appellant remained unnoticed by the Collector hence the matter is liable to be remanded for fresh enquiry and disposal according to law. The Judgment cited by the appellant as reported in V.V.Giri case also is applicable to the case on hand.

08. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by by Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju is allowed in part and the matter is remanded to the District Collector, East Godavari for afresh enquiry and to give opportunity to the both the parties and to pass an order according to law within (3) months from the date of receipt the order. Hence, Proceedings of the District Collector, East Godavari issued vide Ref.No. C5/M/424/2003, dated 23.08.2011 is hereby set-aside and the matter remanded to the District Collector, East Godavari for afresh enquiry and give opportunity to the Appellant and to pass an order according to law within 30 days from the date of receipt the order.

9. Consequently, the District Collector, East Godavari shall take necessary action in the matter.

10. The records (containing Ref.No. C5/M/424/2003, dated 23.08.2011, pages 192 CF) received from District Collector, East Godavari through in the reference 6th read above, are returned herewith in original to District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To

The District Collector, East Godavari.
(with original records) (BY RPAD)

Smt. J.R.D. Sujana Ranjana Kumari W/o Sri A. Abraham Raju,
C/o Manga Bojjayya Ex-Sarpanch,
Rampa Chodavaram Village & Mandal,
East Godavari District.
R/o, HB Colony, Lalacheruvu,(Post), Rajahmundry-6,
East Godavari District.

Sri J.A.R.G.Sreeranga Nayakulu and J.C.J.V. Samrajya Nayakulu
(brothers of Appellant Smt. J.R.D. Sujana Ranjana Kumari)
S/o Jagannayakulu, R/o, Amirekula (V), Rajavommangi (M),
East Godavari District.

Sri G. Jaya Prakash Babu, Advocate,
H.No. 10-5-/19, St. No. 19, Thukaram gate,
Secundrabad 500017
Ph: 98491 51457/9849175958

Copy to :

The Director, TCR& TI, AP, Hyderabad.
The OSD to M(SWE& TWE).
The PS to Prl. Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER